

This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS SECTION 01 OF 02 PANAMA 002351

SIPDIS

SENSITIVE

DEPARTMENT ALSO FOR WHA/CEN AND INL  
SOUTHCOM FOR POLAD

E.O. 12958:N/A

TAGS: [PGOV](#) [PREL](#) [PINR](#) [SNAR](#) [PM](#) [POL](#) [SPECIALIST](#)

SUBJECT: NATIONAL ASSEMBLY DISMISSES CRIMINAL COMPLAINT  
AGAINST EIGHT SUPREME COURT JUSTICES

REF: PANAMA 2294

#### Summary

1. (U) In a decision that surprised no one, on November 29 the National Assembly Judicial Affairs Committee decided to dismiss Alianza Pro Justicia's criminal complaint against eight Supreme Court Justices. November 29, the Panamanian press was quick to point out, also was the day that the U.S. Embassy informed Supreme Court Justice Winston Spadafora that his U.S. visa had been revoked. A December 1 editorial cartoon showed two gangsters ("National Assembly" and "Supreme Court") deep-sixing accusations of corruption against the Court in the deep of night. Civil society is disappointed with the Assembly's dismissal of the complaint, yet not surprised. President Torrijos, who commented only that he respected the decision of the USG to revoke one of its visas, has appointed a Committee to screen candidates for two upcoming vacancies at the Supreme Court. End Summary.

#### Background

2. (SBU) On November 14 Alianza Pro Justicia (the "Alianza", comprising 15 civil society organizations), submitted a criminal complaint against eight Supreme Court Justices based on an independent legal audit of six cases regarding narcotrafficking. The audit was sparked by and referred to a denunciation made by former Chief Justice Adan Arjona last March against eight of his colleagues for what he considered questionable rulings (to say the least), related to notorious narcotics cases, in which known criminals were freed on apparently flimsy pretexts. Alianza's audit alleges "serious concerns" about the rulings in two of the six cases. (See Reftel.)

#### A Committee Deliberates

3. (U) After meeting initially on November 22, the Assembly's Judicial Affairs Committee (comprising PRD legislators Freidi Torres (Chairman), Juan Hernandez, Marina de Laguna and Jerry Wilson, and opposition legislators Argentina Arias, Ruben Beitia and Hector Aparicio), finally voted to dismiss the complaint on November 29, citing lack of evidence. Right after the complaint was submitted Legislative President Elias Castillo and the Committee Chairman Freidi Torres (a former majority leader) publicly stated that unless the complaint was accompanied by strong "evidence" the National Assembly would not admit it.

#### "None of Your Business"

4. (U) Commissioner Jerry Wilson (former Assembly president and former Supreme Court justice under the Noriega military regime) also publicly criticized the complaint and claimed that the Alianza had no right to submit such a complaint as it was not a party affected by any of the rulings. (Note: Panamanian law specifically permits any individual to submit complaints against Supreme Court Justices before the National Assembly.) Moreover, current Chief Justice Jose Troyano, a former member of the governing PRD, and one of the eight Justices accused, sarcastically stated in public that "whoever wanted his job would have to wait until his term was over (in December 2007)" as he had no intention to resign or any expectation that the complaint would prosper at the National Assembly.

#### Where's the Beef?

5. (U) In an interview broadcast live, Chairman Torres talked without restraint against the criminal complaint and called it "imprudent and too vague," arguing that it did not comply with Panamanian law. The Committee members unanimously agreed that the complaint had to be dismissed immediately as it was not accompanied by solid evidence ("prueba sumaria," essentially a smoking gun). (Note: Panamanian law specifically calls for evidence to accompany criminal complaints at the moment the complaints are submitted. Alianza considered that they had provided enough evidence when they filed the complaint. See Reftel.)

Torres went further, saying that the Assembly could only admit the complaint if it was accompanied by evidence "that the Justices had received money for the rulings they issued" and defended Supreme Court rulings as "final and unchallengeable." (Note: Torres has requested a meeting with Ambassador Eaton to explain his committee's decision.)

#### Reactions

16. (SBU) Alianza Executive Director Magaly Castillo was upset by the decision, though in private she had confided that she had little reason to expect the National Assembly to take action against the Justices. Castillo argued that corruption does not leave evidence behind and therefore is very difficult to prove to the standard that Torres demanded. "The least the National Assembly could have done was to summon Justice Arjona to ask for more information on his public denunciation against his colleagues," Castillo said. Alianza will focus on pushing for penal laws to make it easier to convict people for corruption and to require less evidence in the presentation of a complaint.

17. (U) Transparency International Executive Director Angelica Maytin stated that the Assembly's position showed "complicity between the Justices and the legislators," as Panama's constitution establishes that the National Assembly can impeach justices and the Supreme Court may investigate and try legislators. Catholic Church Peace Commission Executive Director Maribel Jaen also was disappointed but said that the decision "will encourage civil society to keep close watch on public servants."

18. (U) More dispassionately, Methodist Bishop Pablo Morales of the Ecumenical Council, a member of Alianza, said that the complaint did not charge the Justices specifically with corruption but raised serious questions about certain Court rulings that should have been clarified for society's "tranquility."

#### Evaluating Committee

19. (U) On November 23, nine days after the Alianza's criminal complaint was submitted, President Torrijos issued a Cabinet Decree establishing an "Evaluating Committee" (Comision Evaluadora), following the recommendation of the Commission for Judicial Reforms, to help the GOP screen candidates for the two upcoming vacancies at the Supreme Court. (Note: Justices Arturo Hoyos and Jorge Federico Lee's terms both expire on December 31, 2005). The Committee is formed by seven members from civil society.

#### Comment

10. (SBU) The National Assembly's decision surprised no one. On the contrary, the Assembly would have shocked Panamanians if it had accepted the complaint. Nonetheless, Panamanian skepticism regarding the country's judicial and political authorities to take ethical actions increases by the day. Civil society leaders made passionate public declarations that signaled their deep disappointment at the Assembly's decision to dismiss the case but privately they were reconciled that "nothing would happen." In Panama, the PRD-controlled Assembly in fact has little independence from the executive. The Assembly's dismissal of the complaint against the magistrates rather reveals the Torrijos administration's reluctance to pursue high-profile corruption cases against the Court. Is that because several cases before the Court, which either have been dismissed or remain pending, allegedly link administration officials to corrupt acts? Is the executive as afraid of the Court as the Legislature?

Arreaga #